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O'Melveny & Myers LLP IP&T Calendar Department LA-13-A7 400 South Hope Street Los Angeles, CA 90071-2899			EXAMINER BROWN, RUEBEN M	
			ART UNIT 2424	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/2010 has been entered.

### **Response to Arguments**

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 30, 32-34, 36-44, 46-50 & 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis, (US PG-PUB 2005/0144641), in view of Amron, (U.S. PG-PUB # 2001/0043194) and Katz, (U.S. Pat # 6,560,651) and Itoh, (U.S. PG-PUB 2003/0206632).

Considering claim 30, the amended claimed system for distributing video content, comprising,

*'an interactive kiosk configured to be located in a public location, the kiosk comprising a receptacle configured to manually receive a storage device via a second physical connector adapted to mate with a first connector, an input device for receiving input from a user, the kiosk further configured to securely store video content in response to the received user input',* is met by the VPR/DMS of Lewis which is a receiver that receives video programming from one or more video providers, Para [0023; 0261] . Lewis teaches that the video may at least be temporarily stored in memory 14 and secured by scrambling and/or other methods, Para [0135; 0144].

As for the claimed, *'configured to be located in a public location'*, Lewis teaches that the VPR/DMS is appropriate for a range of commercial applications, including bookstores, rental stores, music stores, etc., Para [0201].

As for the claimed, 'portable video content storage device upon which digitally encoded video content is securely stored to prevent unauthorized access, ...the storage device comprising memory capable of storing a least MPEG2 quality video content, ...a security module that connects with and limits access to the memory', Lewis teaches a plurality of storage devices that may interface with the receiver to download digitally compressed data, that may also be scrambled, Para [0035; 0211; 0254; 0257]. Furthermore, Lewis teaches that video data that has been stored in memory 14 may be retrieved onto one or more portable storage medium 19, Para [0198-0199; 0204-0205; 0215]. Lewis also discloses that access to the content downloaded to the portable recorder/player 19 is limited to users that have satisfied the associated fee, and have the authorization key downloaded, [0160].

As for the added, '*authenticating the identity of any device attempting to communicate with the memory*', even though Lewis teaches that the customer may be authenticated with a password, the reference does not explicitly discuss authenticating the identity of a device attempting to communicate with the memory. Nevertheless, Katz provides a distribution mass storage device 241, which may video programming downloaded onto it, (col. 7, lines 10-20; col. 8, lines 41-50; col. 9, lines 45-50 ) which confirms the player ID of any playback device 212 that attempts to access the content, see col. 10, lines 15-30; col. 12, lines 25-45. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the feature of authenticating the identify the device accessing content from a storage, for the

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desirable benefit of ensuring that any device that interfaces with the system is authorized, as taught by Katz.

*'a device controller that connects with and controls the memory, wherein the memory is compatible with the device controller but the memory is incompatible with industry standard device controllers'*, Lewis teaches that system may operate in a manner that video programming is stored in a proprietary format, which would require the unique functions of the VPR/DMS see, Para [0254; 0257].

The claimed, *'set top box comprising a second receptacle configured to manually receive the storage device via a third physical connector to mate with the first connector, the set top box further configured to access securely store video content from the storage device, and provide the video content to a display device'*, Lewis teaches that the VPR/DMS is also enabled to receive video programming from a plurality of portable storage medium, see Para, [0254]. As for, *'configured to accumulate content use data and store the accumulated content use data directly onto the storage device'*, see Para [0260], which teaches that the VPR/DMS is capable of electronic monitoring and logging all transactions.

The further claimed feature that the first, second and third connectors are incompatible with industry standards, Lewis teaches that information or content may be formatted in a manner that is proprietary, but does not mention the physical connectors. However, Amron, which is in the same field of endeavor (of a portable memory device 19 for storing/transferring video data)

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teaches a proprietary interface for connecting a plug-in memory storage unit 19 to a receiver, see Para [0033, 0041]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the teaching of a proprietary interface, as taught by Amron, for the well-known advantage of limiting access to the devices, apparatus and/or content, by requiring the use of a non-standard interface or component, as taught by Amron, [0020-0022]. Specifically, Amron teaches that the plug-in module is a card which is a non-standard card having a proprietary size, that will not fit into the connector interface port of a standard device. Furthermore, Amron teaches that the memory is formatted in a proprietary compression format, see Para [0019, 0037].

As for the additional claimed recitation, '*to substantially prevent the content-use data and the stored video content from being accessed by an industry-standard computer system*', the subject matter is also met by the disclosure of Amron, [0019-0022, 0037].

Regarding the further claimed feature of the, '*content use data comprising at least a number of times and the securely stored video content has been accessed and portions of the securely stored content that are accessed...to calculate a usage fee based on the number of times and the portions of the securely stored video content that are accessed*', Lewis only explicitly discusses billing the user based on a rental period, [0205-0209] not according to number of times usage.

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However Itoh, which is in the same field of endeavor (video programming stored on a portable memory device), provides a teaching of charging a customer based on the number of times that a movie is played from a particular DVD, see col. 2, lines 5-35. Itoh goes on to also teach that multiple different movies may be stored on that particular DVD, so that the customer is billed based on the actual movie that was played back, which reads on the claimed 'wherein the stored content comprises a movie divided into a plurality of portions and the portions of the securely stored video content that is accessed', Abstract; Para [0035, 0044-0046]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Lewis with the feature of billing customers per usage of a downloaded video content, at least for the desirable benefit of allowing the customer pay different amounts f what is actually viewed, as taught by Itoh, [0012].

As for the additional requirement, 'the number of times the individual ones of the plurality of portions were accessed by the STB', Itoh teaches that the program has been accessed from the storage device and billed according to number of times that the program, i.e., the particular version watch is watched. .

Regarding the added feature of the kiosk being '*configured to erase the accumulated content use data from the storage device that specifies content use for which payment has already been made*', Lewis teaches erasing programs that have been rented by a customer from the kiosk, see Para [0205-0207, 0218].

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Considering claim 32, a passive storage media unit reads on the portable device of Lewis.

Considering claim 33, Lewis teaches scrambling, watermarking, etc. [0260].

Considering claim 34, the claimed method of obtaining and using video content corresponds with subject matter mentioned above in the rejection of claim 30, and is likewise treated.

Considering claim 36, the claimed '*manually reinserting the storage device in the kiosk*', reads on the combination of Lewis [0215] & Flannery (Figs. 3 & 4).

Considering claim 37, the hand-held dedicated secure video content storage device corresponds with subject matter mentioned above in the rejection of claim 30, and is likewise treated. In particular, the portable storage device 19 of Lewis, meets the claimed, '*mass storage device*', see [0215].

Considering claim 38, the physical connectors in Lewis & Flannery are electrical.

Considering claim 39, Official Notice is taken that optical connectors were known at the time the invention was made. It would have been obvious for one of ordinary skill in the art to modify Lewis with an optical connector at least, for the benefit of increased portability.

Considering claim 40, Lewis teaches authentication of the VPR/DMS.

Considering claims 41-44, 46-47 & 52-56, Lewis teaches all subject matter, see Para [0189-0191, 0211, 0213, 0214, 0260].

Considering claim 48, the claimed set-top box for accessing video content stored on a portable storage device, corresponds with subject matter mentioned in the rejection claim 30 and is likewise treated. Furthermore, Lewis teaches that the receiver is enabled to store, process and playback data products for a portable storage device, see Para [0254].

Considering claim 50, the system of Lewis inherently controls the portable storage device and decrypts data stored therein, see col. 8, lines 44-67.

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**Or:**

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

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/Reuben M. Brown/  
Patent Examiner, Art Unit 2424